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2/18/2010 2:47 PM

D210036730



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Suzanne Henderson

Submitter: SIMPLIFILE

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

## AMENDMENT TO OIL AND GAS LEASE

**STATE OF TEXAS**

**COUNTY OF TARRANT**

Reference is made to the Oil and Gas Lease dated effective November 27, 2006, recorded at Instrument #D207029152 in the Official Public Records of Tarrant County, Texas, from KWP Marina Club L.P. and Vargas Energy, Ltd. (hereafter referred to as the "Lease").

Whereas, by Assignment dated August 1, 2007, recorded at D208015102, the Lease was assigned by Vargas Energy, Ltd. to XTO Energy Inc. (hereafter referred to as "Lessee");

Whereas, by Assignment of Rights Under Non-Surface Use Oil and Gas Lease dated December 30, 2008, recorded at D208469820, KWP Marina Club, L.P. assigned its rights under the Lease to Cornerstone Marina Club LLC (hereinafter referred to as "Lessor");

Lessor and Lessee desire to amend the Lease by adding the following as article 31 and 32 to the Exhibit "A" of the Lease:

"31. Lessee is prohibited from using the surface of the Land for any purpose, but Lessee may engage in directional drilling activities beneath the Land that are conducted on the surface of other land. Any directional drilling must penetrate the Land sufficiently below the surface as to not interfere with the present or future use of the surface of the Land for commercial or residential use, and in no event may the directional drilling penetrate the Land less than 1000 feet below the surface. Since drilling, reworking or other operations are not allowed on the Land, it is agreed that any such operations conducted at a surface location off of the Land or off of lands with which Land is pooled in accordance with this Lease, provided that such operations are associated with a directional well for the purpose of drilling, reworking, producing or other operations under the Land or lands pooled therewith, shall for purposes of this Lease be deemed operations conducted on the Land."

"32. LESSEE AGREES TO INDEMNIFY AND HOLD HARMLESS LESSOR, AND LESSOR'S REPRESENTATIVES, SUCCESSORS, AND ASSIGNS AGAINST ALL EXPENSES, CLAIMS, DEMANDS, LIABILITIES, AND CAUSES OF ACTION OF ANY NATURE FOR INJURY TO OR DEATH OF PERSONS AND LOSS OR DAMAGE TO PROPERTY, INCLUDING, WITHOUT LIMITATION, REASONABLE

ATTORNEY FEES, EXPERT FEES, AND COURT COSTS, CAUSED BY LESSEE'S OPERATIONS ON THE LAND OR LESSEE'S MARKETING OF PRODUCTION FROM THE LAND OR ANY VIOLATION OF ANY ENVIRONMENTAL REQUIREMENTS BY LESSEE. AS USED IN THIS PARAGRAPH, THE TERM "LESSEE" INCLUDES LESSEE, ITS AGENTS, EMPLOYEES, SERVANTS, CONTRACTORS, AND ANY OTHER PERSON ACTING UNDER ITS DIRECTION AND CONTROL, AND ITS INDEPENDENT CONTRACTORS."

Lessor and Lessee desire to further amend the Lease by deleting article 6 of the Lease:

Lessor hereby adopts, ratifies and confirms the Lease, as herein amended and grants and leases hereby exclusively unto Lessee, the Land subject to and in accordance with the terms of the Lease as amended hereby.

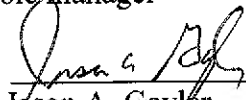
SIGNATURES ON FOLLOWING PAGE

LESSOR:

CORNERSTONE MARINA CLUB, LLC  
a Delaware limited liability company

By: CDP Marina Club, LLC  
a Delaware limited liability company,  
its sole manager

By: CDP Apartments, LLC  
a California limited liability company,  
its sole manager



By:   
Jason A. Gayler  
Duly Authorized Signer

WELLS FARGO REAL ESTATE CAPITAL  
INVESTMENTS, LLC

By: \_\_\_\_\_  
Name: Ronald D. Gregory  
Its: Senior Managing Director  
Duly Authorized

LESSEE:

XTO Energy Inc.

   
Edwin S. Ryan, Sr. Vice President –  
Land Administration

CORNERSTONE MARINA CLUB, LLC  
a Delaware limited liability company

By: CDP Marina Club, LLC  
a Delaware limited liability company  
its sole manager

By: CDP Apartments, LLC  
a California limited liability company,  
its sole manager

By: \_\_\_\_\_  
Jason A. Gayler  
Duly Authorized Signer

WELLS FARGO REAL ESTATE CAPITAL  
INVESTMENTS, LLC

By: Ronald D. Gregory  
Name: Ronald D. Gregory  
Its: Senior Managing Director  
Duly Authorized

LESSEE:

XTO ENERGY INC.

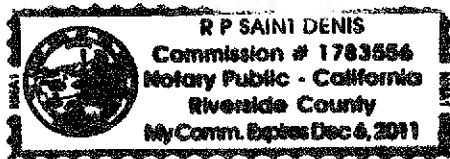
\_\_\_\_\_  
Edwin S. Ryan, Sr. Vice President –  
Land Administration

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Riverside

On 02/04/10 before me, R P Saint Denis,  
Date Here Insert Name and Title of the Officer  
 personally appeared Jason A. Gayler,  
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature R P Saint Denis  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

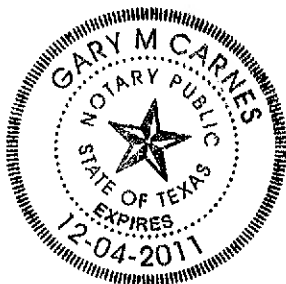
RIGHT THUMBPRINT  
OF SIGNER  
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STATE OF TEXAS

COUNTY OF BEXAR

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§  
§

This instrument was acknowledged before me on this 9th day of FEBRUARY, 2010, by Ron Gregory, Senior Managing Director of Wells Fargo Real Estate Capital Investments, LLC.



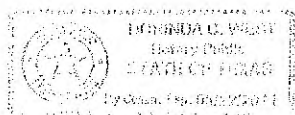
Gary M. Carnes  
Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF TARRANT

§  
§  
§

This instrument was acknowledged before me on this 17 day of February, 2010, by Edwin S. Ryan, Sr. Vice President – Land Administration of XTO Energy Inc., a Delaware corporation, on behalf of said corporation.



Dorinda C. West  
Notary Public, State of Texas